

SEP 25 2007

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September 25, 2007

Commissioner of Patents
PO Box 1450
Alexandria VA 22313-1450

Re: Misplaced Appeal Brief in Appl. Ser. No. 10/626,110

Gentlepersons:

Per the Examiner's request I am faxing a copy of the brief which was submitted in triplicate on May 11, 2007 as evidenced by the attached certificate of mailing. However, a search of my records has failed to produce any evidence that a fee was submitted therewith. This may have been based on a belief (mistaken?) that since the fee was submitted with the earlier version of the brief, and the Examiner withdrew her rejection, that Brief fee would be applied to the re-submission.

Very truly yours,

A handwritten signature in cursive script that reads "Richard K. Thomson".
Richard K. Thomson
Patent Attorney

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Vladan Mijailovic Docket No.: AD#-155
Serial No.: 10/626,110 Examiner: Amy Jo Sterling
Filed: 7/23/2003 Group Art Unit: 3632
For: "Steadying Camera Support Platform"

Date: May 23, 2005
Resubmitted: May 10, 2007

Appellant's Brief(1) Real Party in Interest

Applicant-inventor is the real party in interest, there being no assignment nor obligation to assign the subject matter described and claimed herein.

(2) Related Appeals and Interferences

None.

(3) Status of Claims

Claims 1-8 stand Finally Rejected. The Examiner has allegedly withdrawn Claims 9-21 from consideration as being drawn to a non-elected invention subject to a species election requirement, even though the invention set forth in Claims 9-21 bear a sub-combination, combination relationship to the invention of Claims 1-8. No claim has been allowed.

(4) Status of Amendments

An amendment after final to claim 1 presented November 17, 2004, has been refused entry.

(5) Summary of Claimed Subject Matter

Applicant's inventive device, as set forth in Claim 1, is directed to a system for holding a hand-held video camera steady during its movement while recording (page 1, lines 11-25). The system comprises a support platform 22 to which the video camera is secured. A support shaft 24 is connected to a bottom surface of the platform and a sphere 40 affixed to an upper portion 26 of the support shaft. A socket plate member 42 pivotally captures the sphere in a socket (46, 46', Fig.

5) formed therein the socket plate freely pivoting about the sphere. A balance plate 58 is connected to a bottom portion 28 of the support shaft to help counterbalance a weight of the camera. Means (50, 70) is attachable to the socket plate member 42 by which the support platform and the video camera are suspended, whereby when the platform support with the camera supported thereon is transported during video recording using the means attachable to said socket plate member, the camera is maintained in a steady position by a gravitational force (see page 5, lines 2-19 for partial description of relevant structure and page 5 line 20-page 6, line 2 for a concise synopsis of the device's operation). The support shaft 24 has a first portion 26 which can be rotated relative to second portion 28 (Fig. 2) to tilt the video camera, if desired. A description of secondary means 70 for supporting the platform is found at page 6, line 15-page 7, line 16.

(6) Grounds of Rejection to be Reviewed on Appeal

- 1) Rejection of Claims 1-8 under 35 USC §112, first paragraph.
- 2) Rejection of Claims 1-8 under 35 USC §112, second paragraph.
- 3) Rejection of Claims 1-4, 6-8 under 35 USC §103(a) as unpatentable over Reese et al. (US pat. no. 6,119,995) in view of Wu et al. (US pat. no. 6,729,778).
- 4) Rejection of Claim 5 under 35 USC §103(a) as unpatentable over Reese et al. in view of Wu et al., supra, as further modified by Donahue (US pat. no. 4,953,852).

(7) Argument

1) Claims 1-8 stand Finally Rejected, first paragraph, as failing to comply with the enablement requirement. It is the Examiner's position that

The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not specifically address as to what is meant by "at all times" in such a way that one of ordinary skill may make or use the invention.

Appeal is taken from the rejection of Claims 1-8.

It is true that the phrase "at all times" does not appear in the specification. However, the specification does not have to provide in haec verba support for the language of the claims, only description of structure which is so claimed. The addition of this wording was required to distinguish

the cited references which "at some times", permit the platform to pivot relative to the mounting sphere. Since each of the references relied upon has a means to lock its platform to its support sphere (which Appellants device lacks), it is clear that the devices of the prior art do not permit free pivoting about the sphere "at all times", and to suggest that the references contain such a teaching is to distort them to eliminate their intended function. Further, since Appellants support lacks any means to lock the support platform relative to the sphere, it is clear it is free to pivot relative thereto "at all times". This rejection is ill-founded and should be REVERSED.

2) Claims 1-8 stand Finally Rejected under 35 USC §112, second paragraph, as indefinite. It is the Examiner's position that

Claim 1 recites, "at all times" and it is unclear what is meant by "times" and it is unclear how a "timing" pertains to the structure of the device.

Appeal is taken from the rejection of Claims 1-8.

The proper interpretation of the "at all times" limitation is set forth in the argument relative to the 35 USC §112, first paragraph rejection. Appellants platform is maintained horizontal by a counterweight system and not by a locking device. It is free to pivot to accommodate variations in the position of the holder's supporting hand so as to eliminate the effects of such movement on the recorded video images. The prior art devices are designed to lock the platform in place ala a tripod and, hence, are not designed nor capable of performing their functions while permitting rotation "at all times". The ability of Appellants device to freely pivot at all times is a direct outgrowth of the structure defined by the claim. This rejection is ill-founded and should be REVERSED.

3) In the Final Rejection, the Examiner rejected Claims 1-4, 6-8 under 35 USC 103(a) as unpatentable over Reese et al. (6,119,995) in view of Wu et al. (6,729,778).

It is the Examiner's position that

The patent to Reese et al. discloses a camera steady device (10) having a support platform (20) and a support shaft (16a, 18) connected to the bottom surface of the platform, having a first upper portion (16), and a separate second lower portion (18), the first and second shafts being positionable within 60 degrees relative to each other and a locking mechanism (24) to lock them in place, a sphere (30) affixed to the upper portion of the support shaft (16a, 18) a socket with a handle (32a, 32b, 16) which has a straight portion and

an [sic] fifteen degree angled portion (See Drawing Below), the socket which is permitted to freely pivot about the sphere, a range of plus or minus 60 degrees about a roll and pitch axis and plus or minus 360 degrees about a yaw axis by being, [?sic] the socket which has a first upper plate (32b) with a first downwardly directed truncated spherical recess, and a second lower plate (32a) with a second upwardly directed truncated spherical recess, the recesses which pivotally captures the sphere (30).

Reese does teach a counterbalanced socket plate member connected to the bottom portion of the support shaft and a means attachable to socket plate to by [sic] which the support platform is suspended or a and [sic] means (48) for attaching a video camera.

Wu et al. shows a camera steady device for a video camera (60) and a means for attaching (341) the camera, which has a sphere attached to support shaft (20) which has a counterbalancing socket plate member (12) connected to a bottom portion of the support shaft (20) and a means (13) attachable to socket plate to by [sic] which the support platform is suspended, used to firmly hold the video camera to the device and to suspend the device from a support surface. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Wu et al. to have added these things to the device of Reese et al. in order to firmly attach the camera to the device and to suspend the device from a support surface.

Appeal is taken from this rejection of Claims 1-4, 6-8.

Reese et al. and Wu et al. are each directed to platforms for still cameras (not video cameras) which lock in a particular position for photography. The Examiner appears to be doubly including the support platform 20 when she recites a counter-balanced socket plate member. Claim 1 clearly requires two separate elements, a support platform 22 (Applicant's reference system) connected to a top portion of the support shaft 24 and a counterbalancing plate 58 connected to the bottom end thereof. The Examiner's attempt to have a single item read on these two elements positioned at opposite ends of the support shaft is one of many deficiencies in the logic used to reject these claims.

Neither reference teaches or suggests a platform for a video camera which is mounted on a spherical ball to freely pivot thereabout at all times and, through the use of a counterbalance, the camera is maintained in a steady position by a gravitational force, as Claim 1 requires. The Examiner appears to select items from a menu which she would like to appropriate from Wu et al. and insert into the device of Reese et al. However, there does not appear to be a teaching of a reason to do this found outside of Applicant's specification. The use of Applicant's own teaching to provide the mortar to hold the building blocks of a rejection together requires an impermissible level of hindsight reconstruction. In re McLaughlin 170 USPQ 209. None of the cited references teaches or suggests

a platform for use with a video camera which pivots freely about a spherical ball under weight of gravity as influenced by a counterweight balance plate. The Examiner has failed to establish a prima facie case of obviousness and, accordingly, this rejection should be REVERSED.

4) Claim 5 has been Finally Rejected under 35 USC §103(a) as unpatentable over Reese et al. in view of Wu et al. as further modified by Donahue (4,953,852). It is the Examiner's position that

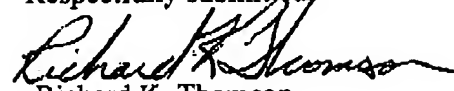
Reese et al. and Wu et al. disclose applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the sphere is made of Teflon.

Donahue shows [sic] a joint having a sphere (62) that is made of Teflon, used for its low frictional properties (See Col. 6, lines 20-24 for material selection). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Donahue to have made the sphere of Teflon in order to have a low friction point.

Appeal is taken from this rejection.

Donahue fails to remedy the deficiencies noted supra regarding the primary combination. The stated purpose of Reese et al. is to create a locking device which will not slip when subjected to loads capable of producing 200 ft-lbs of torque. It is not clear, given the stated purpose of the Reese et al. patent, why anyone, let alone one of ordinary skill in the art, would insert a TEFLON ball, notorious for its self-lubricating slipperiness, as the Examiner has alleged is obvious. It is respectfully submitted that doing so destroys the function of the Reese et al. device for its stated intended purpose. Further, the only reason why one would logically do so is to meet the teaching of Applicant's device, which, even having made the substitution, the combination fails to do. As pointed out with regard to the basic combination, the use of Applicant's teaching as the mortar to hold the building blocks of a rejection together, requires the Examiner to use an impermissible level of hindsight reconstruction. **McLaughlin**, supra. The rejection of Claim 5 is ill-founded and this ground of rejection should be REVERSED.

Respectfully submitted



Richard K. Thomson

Patent Attorney

Reg. No. 29,032

Certificate of Mailing under 37 CFR §1.8

I hereby certify that this Appeal Brief in the application entitled "Steadying Camera Support Platform" is being deposited in triplicate with the United States Postal Service addressed to Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 with adequate first class postage on the date shown.

Signed Richard K. Thomson Date May 11, 2007

Claims Appendix

1. A system for holding a hand-held video camera steady during its movement while recording, said system comprising
 - a) a support platform to which the video camera is secured;
 - b) a support shaft connected to a bottom surface of said platform;
 - c) a sphere affixed to an upper portion of said support shaft;
 - d) a socket plate member which pivotally captures said sphere in a socket formed therein, said socket plate freely pivoting about said sphere at all times;
 - e) a balance plate connected to a bottom portion of said support shaft to help counterbalance a weight of the camera;
 - f) means attachable to said socket plate member by which said support platform and the video camera are suspended;

whereby when the platform support with the camera supported thereon is transported during video recording using the means attachable to said socket plate member, the camera is maintained in a steady position by a gravitational force.

2. The system of Claim 1 wherein said socket plate member permits said sphere to freely pivot $\pm 60^\circ$ about a roll axis, $\pm 60^\circ$ about a pitch axis, $\pm 360^\circ$ about a yaw axis.
3. The camera platform support of Claim 1 wherein said support shaft is formed in a first upper portion and a second separate lower portion, and said first upper portion may be locked in any desired position within an angle of $\pm 60^\circ$ relative to said second lower portion by means of a joint with a locking mechanism.
4. The system of Claim 1 wherein said socket plate member comprises a first upper plate with a first downwardly directed truncated spherical recess and a second lower plate with a second upwardly directed truncated spherical recess, said first and second truncated spherical recesses capturing said spherical ball and serving as said

spherical ball's bearing surface.

5. The system of Claim 4 wherein said spherical ball is made of polytetrafluoroethylene material.
6. The system of Claim 1 wherein said means attachable to said socket plate comprises a handle.
7. The system of Claim 6 wherein said handle has a first straight portion and a second angled portion.
8. The system of Claim 7 wherein said second angled portion forms an angle of 15° with said first straight portion.

Evidence Appendix

None.

Related Proceedings Appendix

None.